

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3936 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

K M RAWAL

Versus

STATE OF GUJARAT & ANR.

Appearance:

None present for the Petitioner

MR NN PANDYA for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/07/96

ORAL JUDGEMENT

1. Perused the papers of this Special Civil Application and heard learned counsel for the respondents. The petitioner was holding the post of Manager in the office of respondent no.2. In this Special Civil Application the petitioner has challenged the order dated 25th July, 1984 under which his suspension was cancelled with immediate effect in view of the order made to transfer him to Bhavnagar. The

petitioner was placed under suspension in connection with the departmental inquiry. Earlier also the petitioner has been transferred to Bhavnagar. The petitioner has made the prayer that the respondent may be directed to pay to the petitioner full salary during the period of suspension under the direction of this Court by the order dated 5th July, 1984 in Miscellaneous Civil Application No.351 of 1984. This Court on 31st July, 1984 granted the interim relief to the petitioner which reads as under:-

"In the meantime, the petitioner shall be deemed to be on suspension as before."

On 17th August, 1984, rule was issued and ad-interim stay was granted against the order of transfer which reads as under:-

Ad-interim stay against the order of transfer. I make it clear that this stay shall not be a bar to taking other actions including the one of suspension, otherwise legal, for the authorities to take.

2. The order of transfer of the petitioner has been stayed in the year 1984 and the petitioner has not brought on record whether the authorities have taken any other action as directed by this court on 17th August, 1984. After 12 years it is possible that the departmental inquiry would have come to an end and the matter also would have come to an end. The order of transfer has not been given effect to as this Court had stayed the same. I do not consider it appropriate now to decide this writ petition on merits and to give effect to the order of transfer of the petitioner when by now the inquiry would have been completed and many other things would have taken place. So far as the other grievance of the petitioner is concerned, it would also have come to an end by passing of the time. The petitioner has not brought on record any further material to justify the other prayer made by the petitioner in this Special Civil Application.

3. In the result, this Special Application is disposed of with the direction that the order dated 25th July, 1984 may not be given effect to and it shall be treated to have been cancelled. However, it shall be open to the respondent to pass the fresh order of transfer of petitioner, if administrative exigencies require such an order. Rule is made absolute in the aforesaid terms with no order as to costs.
